

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	
v.	)	17 CR 822
	)	Judge Edmund E. Chang
JOSE FLORES	)	
	)	20 CV 01792
	)	Emergency Judge Rebecca R. Pallmeyer
	)	

REPLY IN SUPPORT OF DEFENDANT’S EMERGENCY MOTION  
FOR PRETRIAL RELEASE ON CONDITIONS

The defendant, JOSE FLORES, by and through his counsel, PIYUSH CHANDRA, FEDERAL DEFENDER PROGRAM, hereby reply’s to the government’s response to Mr. Flores’s Emergency Motion for Pretrial Release on Conditions. In support of his motion, Mr. Flores asserts the following:

1. The government spends much of its response asserting facts related to the weight of the evidence that supports their claim that Mr. Flores remains a danger by clear and convincing evidence. Since the original detention hearing held in this matter, however important facts have been learned that significantly weaken the government’s position related to Mr. Flores’s knowledge and role in this offense and the level of his gang participation

prior to his arrest. The government relies primarily on a version offense put forth by a team of Chicago Police Department officers related to claimed post offense statements and the events leading up to his arrest.

2. It is the defense position that video evidence taken from private residence contradict the police version of events in significant manners that suggest to this counsel that this CPD team did not meet their obligation to provide a truthful version of events related to the statements he made, his actions, and level of knowledge. It is the defense contention that his then counsel, Jonathan Brayman's, failed attempts to meet with Mr. Flores during his post offense interrogation further cast doubt on the CPD version of statements asserted by the government and that Mr. Flores denies making. The defense will elaborate on these facts at the hearing if necessary.
3. It is the defense position that the evidence in this case supports that Mr. Flores had low level, if not minimal, involvement in gang activity for several years prior to his arrest. Mr. Flores acted as a middle person in this offense. On the day of this offense, he and his wife were out to lunch and shopping when he was asked to pick up something not specified. He did not have knowledge of what he was asked pick up. He only told his wife he had to make a stop to pick something up near to where they were. It was only after

individuals placed items in the rear of his van did he see that there were two firearms. His wife was unaware what was being placed in the rear of their van. Mr. Flores never passed on any funds to the individuals that placed the firearms in the rear of the vehicle. His vehicle was stopped a short time later and Mr. Flores's was placed under arrest. Ms. Galvan was not arrested.

4. In contradiction to the CPD version of his statement, Mr. Flores never was given or waived his *Miranda* warnings. This is supported by the fact that he requested an attorney at time of his arrest, attorney Jonathan Brayman appeared at the police station, but was not permitted to see Mr. Flores until after the CPD completed their interrogation. Mr. Flores repeatedly asked for his attorney during the interrogation. This is not reflected in the CPD version of his statement. Indeed Mr. Flores asserts he informed the CPD he was not told he would be picking up firearms. The CPD claim that Mr. Flores stated that he walked to a certain location and then he paid a large amount of cash for the firearms is belied by the video tape evidence from a private residence. The CPD claims as to the post arrest statements made by Mr. Flores, at a minimum, lack credibility.
5. In short as to the issue of danger to the community. Mr. Flores was not an active gang member at the time of his arrest. It is important to note that Mr.

Flores was released from Illinois Department of Corrections (IDOC) custody on November 10, 2011(PSR, 55). From that release, to his arrest for this offense six years later, Mr. Flores had only one arrest for operating an uninsured vehicle which was not charged (PSR, §78). He has a six year record prior to this arrest of not being a danger to the community. During that six years, he obtained his Commercial Driver's License (CDL) and was employed for three years (PSR, §§ 124, 130).

6. The defense is not making the issue of the potential dangers of the coronavirus spread within the Chicago M.C.C. as the primary basis for Mr. Flores's release. The court is well aware of the issues surrounding these safety concerns to not only Mr. Flores, but to staff and other inmates. While the defense agrees that the M.C.C. is doing everything it can to control the virus spread of this dangerous virus, it also suggests that where it otherwise reasonable to reduce the burden on the detention system, it will overall increase the ability for the M.C.C. to manage and reduce the spread of the virus. In just a matter of weeks, the number from zero inmates and staff having the virus, to twelve inmates and fourteen staff members with confirmed cases of corona virus.<sup>1</sup> The more detainees that have the virus,

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<sup>1</sup> BOP website, April 20, 2020.

the more the virus will spread to other detainees and staff members.

7. Unlike many defendants, Mr. Flores has a stable home and a supportive family that with proposed conditions, provide the court reasonable assurances that Mr. Flores will follow the court's conditions and therefore reduce the risk of danger to the community.

It is therefore respectfully requested that the court release Mr. Flores on the proposed conditions of release, in addition to any other conditions it deems appropriate.

Respectfully submitted,

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